

Exhibit USAbt-N

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IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

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6 STATE OF MISSOURI, EX REL.)
7 JEREMIAH W. (JAY) NIXON,)
8 ATTORNEY GENERAL,)

9 PLAINTIFFS,)

10 V.)

CASE NO.
054-1216

11 DEY INC, DEY LP, MERCK KGAA,)
12 EMD INC, WARRICK)
13 PHARMACEUTICALS CORPORATION,)
14 SCHERING-PLOUGH CORPORATION,)
15 AND SCHERING CORPORATION,)

DIVISION NO. 31

16 DEFENDANTS.)

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VIDEO DEPOSITION OF MS. SUSAN MCCANN

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VOLUME II

22

Taken on behalf of the Defendants Warrick, Schering,

23

and Schering-Plough

24

November 7, 2007

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1 Q. Pharmaceutical manufacturers don't
2 receive reimbursement from Missouri Medicaid, correct?

3 MS. ADAMS: Object to the form of the
4 question. Lack of foundation. Calls for speculation
5 from this witness.

6 A. I'm not aware of any mechanism with the
7 exception of possibly dispute resolution where they
8 would receive reimbursement, unless they owned a
9 subsidiary that also provided care directly to
10 patients.

11 MR. McDONALD:

12 Q. Now when you refer to dispute
13 resolution, you're talking about dispute resolution
14 regarding Medicaid rebates, correct?

15 A. Yes.

16 Q. That's not reimbursement for --

17 A. A service.

18 Q. Correct?

19 A. Sorry. Yes.

20 Q. Okay.

21 THE WITNESS: was I out of the frame? I was
22 stepping on something.

23 MR. McDONALD:

24 Q. If you'll look at page 11, please.

25 A. (The witness turns to the requested

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1 page.)

2 Q. Paragraph 33.

3 A. Okay.

4 Q. It says, "For drug pricing information
5 MMP contracted with First Databank." Do you see that?

6 A. Yes.

7 Q. And that's what we had previously just
8 talked about. Of -- First Databank is the entity that
9 gave drug pricing information to Missouri Medicaid,
10 correct?

11 A. Correct.

12 Q. And Missouri Medicaid receives a weekly
13 computer-generated tape with this pricing information
14 from First Databank, correct?

15 A. We did while I was there.

16 Q. Okay. And do you see that this
17 paragraph goes on to say that that tape that Missouri
18 Medicaid receives contains AWP prices. Do you see
19 that?

20 A. AW -- yes.

21 Q. Okay. And it says the AWP prices --
22 well, let me -- let me back up.

23 Again, this AWP information that was received
24 by Missouri Medicaid from First Databank are the AWP
25 prices that Missouri Medicaid relied on for

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1 MS. ADAMS:

2 Q. Is that correct?

3 MR. McDONALD: Object to the form.

4 A. I believed at the time that the fee
5 should reflect the cost to dispense. And I believe --
6 it was what was in the number that was in the survey.
7 I don't recall the precise number.

8 MS. ADAMS:

9 Q. Okay. So you believe that the
10 ingredient fee should have been balanced by the
11 difference, the \$1.23 difference in the dispensing
12 fee, is that correct?

13 A. My position always was that we should
14 pay accurately for both the ingredient cost and the
15 fee. That the ingredient cost should be what is being
16 paid for the drug and that the fee should be
17 appropriate for the dispensing.

18 MS. ADAMS:

19 Q. Okay. Thank you. And one more question
20 about the dispensing fee. Is the dispensing fee set
21 by the legislature?

22 A. I believe so. I think it's in the
23 appropriation.

24 Q. Okay. Do you know if it's any of the
25 rules and regulations?